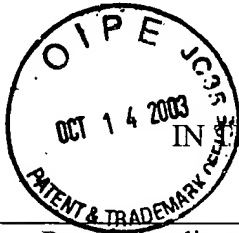


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Docket No.: 03153/100G765-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stephen R. Quake *et al.*

Application No.: 09/800,435

Group Art Unit: 1631

Filing Date: March 5, 2001

Examiner: Mary K. Zeman

For: COMBINATORIAL ARRAY FOR NUCLEIC
ACID DEVICES

RESPONSE TO RESTRICTION REQUIREMENT
UNDER 37 C.F.R. 1.142 AND 1.143

Mail Stop Non-Fee Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear S I R:

In response to the Official Action mailed for this application on September 15, 2003 and in accordance with Rules 142 and 143 of the Rules of practice, please enter and consider the following remarks. It is believed that no fees are due for this response. Nevertheless, a Fee Transmittal form is included with this submission, specifically authorizing the Director to credit any overpayments and/or charge any additional fees during the pendency of this application to our Deposit Account No. 04-0100.

REMARKS

Claims 1-105 are pending in this application. The Examiner has required, in the Office Action, a restriction of the pending claims to one of the following claim groups:

Group I: Claims 1-47, directed to methods for analyzing hybridization data
from a array;

Application No.: 09/800,435

-1-

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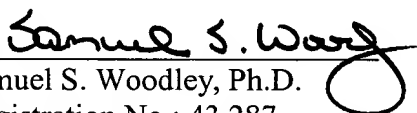
- Group II: Claims 48-63, directed to methods for assigning oligonucleotide probes to "subblocks" on an array; and
- Group III: Claims 64-105, directed to methods for selecting sequence lengths for probes on an array.

In order to be fully responsive to the Requirement for Restriction, Applicants hereby provisionally elect, with traverse, to prosecute the claims of Group I (*i.e.*, claims 1-47) directed to methods for analyzing hybridization data from a array. However, Applicants respectfully traverse the Requirement for Restriction and reserve the right to petition therefrom under 37 C.F.R. 1.144. In particular, and contrary to what is indicated in the Official Action, the pending claims of this entire application can be examined without any undue burden on the Examiner or the Patent and Trademark Office.

Under Patent Office examining procedures, "if the search and examination of an entire application can be made without serious burden, the Examiner *must* examine it on the merits, even though it includes claims directed to distinct or individual inventions." See, M.P.E.P. 803 (emphasis added). The groups of claims designated in this Official Action do not define methods or compositions which are sufficiently distinct to warrant separate examination and searches. For these reasons, Applicants respectfully request that the Requirement for Restriction be withdrawn, and that all of the pending claims be examined together in this application.

Respectfully submitted,

Dated: October 14, 2003

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